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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,630	05/26/2000	Robert McKinnon JR.	5925.36003	7855
21000	7590	02/18/2005	EXAMINER	
DECKER, JONES, MCMACKIN, MCCLANE, HALL & BATES, P.C. BURNETT PLAZA 2000 801 CHERRY STREET, UNIT #46 FORT WORTH, TX 76102-6836			ELOSHWAY, NIKI MARINA	
			ART UNIT	PAPER NUMBER
			3727	
DATE MAILED: 02/18/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/579,630

Applicant(s)

MCKINNON, ROBERT

Examiner

Niki M. Eloshway

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 9, 12, 13, 15-35, 37, 39, 40, 42, 44 and 58-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 12, 13, 15-35, 37, 39, 40, 42, 44 and 58-75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 5, 6, 13, 18, 19, 25, 39, 40, 59, 60, 62, 69, 72, 74 and 75 are rejected under 35 U.S.C. 102(b) as being anticipated by Hauffe et al. (U.S. 3,921,449). Hauffe et al. teaches a lid 31, with recesses shown at number “31” in figure 2.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3, 4, 9, 12, 15-17, 37 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hauffe et al. (U.S. 3,921,449) in view of Goodwin (U.S. 5,564,586). Hauffe et al. teaches a lid 31, with recesses shown at number “31” in figure 2. Hauffe et al. does not teach that the area of the lower surface is greater than the total area surrounded by the outer edges of the recesses. Goodwin teaches that it is known to provide a lid with smaller recesses such that the area of the lower surface is greater than the total area surrounded by the outer edges of the recesses (see figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lid of Hauffe et al. with smaller recesses such that the area of the lower surface is greater

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that the total area surrounded by the outer edges of the recesses, as taught by Goodwin, in order to increase the strength of the lid.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hauffe et al. (U.S. 3,921,449) in view of Goodwin (U.S. 5,564,586), as applied to claim 1 above, and further in view of Bonnema et al. (U.S. 4,726,490). Hauffe et al. discloses the claimed invention except for the wedges. Bonnema et al. teach that it is known to provide a lid with wedges (see elements 45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified lid of Hauffe et al. having wedges, as taught by Bonnema et al., in order to provide additional means with which the lid may be secured to the container.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hauffe et al. (U.S. 3,921,449) in view of Bonnema et al. (U.S. 4,726,490). Hauffe et al. discloses the claimed invention except for the wedges. Bonnema et al. teach that it is known to provide a lid with wedges (see elements 45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lid of Hauffe et al. having wedges, as taught by Bonnema et al., in order to provide additional means with which the lid may be secured to the container.

7. Claims 20-24, 26-35, 42, 61 and 63-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hauffe et al. (U.S. 3,921,449). Hauffe et al. discloses the claimed invention except for the triangular shaped recess. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the article of Hauffe et al. with a recess having a triangular cross section, in order to give the article a more decorative appearance.

Regarding claim 42, Hauffe et al. also does not disclose the density of the material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the article of Hauffe et al. with the density of the material being in the range of .938-.942, since it has been held that "where the general conditions of a claim are disclosed in the prior art, it is not inventive

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to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

8. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hauffe et al. (U.S. 3,921,449). Hauffe et al. does not disclose the density of the material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the article of Hauffe et al. with the density of the material being in the range of .938-.942, since it has been held that “where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

9. Claims 66-68, 70, 71 and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hauffe et al. (U.S. 3,921,449). Hauffe et al. discloses the claimed invention except for the thickness of the article. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the article of Hauffe et al. with the thickness being at least 1.5 inches or no greater than two-thirds of the member thickness, since it has been held that “where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

### ***Response to Arguments***

10. Applicant's arguments filed October 1, 2004 have been fully considered but they are not persuasive. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses to Office Actions directly to (703)872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is (571) 272-4538. The examiner is in the office on Thursdays and Fridays. Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Receptionist at (703) 308-1148.



Niki M. Eloshway/nme  
Patent Examiner  
February 11, 2005



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